

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

In re

CITY OF DETROIT, MICHIGAN,

Debtor.

Chapter 9

Case No. 13-53846

Hon. Steven W. Rhodes

***EX PARTE* MOTION FOR LEAVE TO FILE A SUPPLEMENTAL BRIEF IN
IN SUPPORT OF INTERESTED PARTIES/§1983 PLAINTIFFS'
PREVIOUSLY FILED OBJECTIONS (Dckts. #4099, #4224) ON THE
CONSTITUTIONALITY OF ALLOWING THE DIMINISHMENT OF THE
FUNDAMENTAL RIGHT TO A DAMAGES REMEDY FOR THE VIOLATION
OF CONSTITUTIONAL RIGHTS**

Now comes Creditor/§1983 Plaintiff, JOHNATHAN BROWN, by and through his counsel, and hereby joins Interested Parties/§1983 Plaintiffs' previously filed objections to the Debtor's proposed Plan of Adjustment, seeking leave of this Court to file a supplemental brief in response to the issues raised at the hearing held on July 16, 2014, as well as the *United States of America's Brief in Response to Order of Certification Pursuant to 28 U.S.C. §2403(a)* (Dckt. 6664). In support of his motion, Plaintiff states the following:

1. Certain §1983 Plaintiffs have previously objected to the Debtor's proposed Plan of Adjustment, stating that by diminishing §1983 claims, the proposed Plan violated the Constitution. (Dckt. 4099, 4224).
2. On July 16, 2014, this Court heard oral argument on these objections. One of the questions the Court sought clarification was whether the right to seek

damages for constitutional violations stems from the United States Constitution or whether it is a statutory right.

3. On August 12, 2014, the United States Attorney General's Office filed a brief on this issue at this Court's request. (Dckt. #6664).

4. On August 15, 2014, §1983 Plaintiffs/Objectors sought leave to file a supplemental brief to respond to the brief from the Attorney General's Office. (Dckt. 6758). The Court granted leave to file supplement brief on the same day. (Dckt. 6763).

5. §1983 Plaintiffs/Objectors' second supplemental brief, dckt. 6764, provides the Court with an analysis of the origin of the right to seek damages for constitutional violations with a particular focus on individual defendant officers.

6. §1983 Plaintiff Johnathan Brown filed his supplemental brief on October 31, 2014, to join in §1983 Plaintiffs/Objectors' objection and to provide an accompanying prospective on the right to money damages when the constitutional violations stem from municipalities. (Dckt. 8153, attached hereto as Exhibit 1).

7. On November 3, 2014, the Court issued an order to strike Plaintiff Brown's supplemental brief because it "was filed after the Court had taken the matter under advisement and without leave of the Court". (Dckt. 8158).

8. Plaintiff apologizes for the delay in and his failure to seek leave before filing his supplemental brief.

9. Plaintiff now seeks the Court's permission to join in and to offer additional support to §1983 Plaintiffs' previously filed objections. Plaintiff's brief

statement does not raise any new issues but provides the Court with additional analysis on this novel issue of law.

10. In the interest of justice, the Plaintiff asks the Court to use its discretion to consider Plaintiff's supplemental brief. *Arnold v. Garcia*, 05-70191, 2006 WL 2310268 at *6 (E.D. Mich. Aug 9, 2006).

WHEREFORE, Plaintiff, Johnathan Brown, respectfully requests that the Court enter an order granting his motion for leave to file his supplemental brief.

Respectfully submitted,

/s/ Cindy Tsai

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CERTIFICATE OF SERVICE

I, Cindy Tsai, hereby certify that on Monday, November 3, 2014, I electronically filed the foregoing with the Clerk of the Court using the ECF system.

/s/ Cindy Tsai